

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)

NUMBER 55-8315 (a16853))

MEMORANDUM DECISION

Change Application Number 55-8315 (a16853), in the name of H. Brent and Christie K. Evans, was filed on June 26, 1992, to change the point of diversion, place and nature of use of 1.6 acre-feet of water as evidenced by ownership of two shares of stock under Stock Certificate Number 1277 in the Daniel Irrigation Company. Heretofore, the water has been diverted from Daniels Creek located South 1348 feet West 737 feet from the N $\frac{1}{2}$ Corner of Section 27, T4S, R5E, SLB&M, and used for the irrigation of 0.53 acre.

Hereafter, it is proposed to divert 1.6 acre-feet of water from a 6 inch well, 100 feet to 500 feet deep, located South 250 feet East 475 feet from the NW Corner of Section 16, T4S, R5E, SLB&M, to be used for the irrigation of 0.38 acres, and the domestic purposes of 1 family.

The application was advertised in The Wasatch Wave from July 8, 1992, to July 22, 1992, and was not protested.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and/or no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

The State Engineer has reviewed the application, the water rights of the Daniel Irrigation Company, and the extant reports of the groundwater in the area and is of the opinion that the change application can be approved provided that certain conditions are imposed.

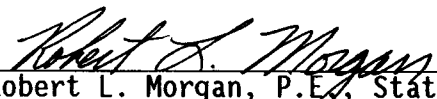
It is, therefore, **ORDERED** and Application Number 55-8315 (a16853) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The applicants shall maintain ownership of the 2.0 shares of stock in the Daniel Irrigation Company, pay their assessment and any other obligation due to shareholders in the company to keep in good standing this change application.
- 2) No more water may be diverted than the applicants would have received through the irrigation company delivery system based on two shares of stock or 1.6 acre-foot of water which ever is less.
- 3) Upon submittal of proof of change, the applicants shall demonstrate that the 0.53 acre of land have been taken out of production from lands formally irrigated through the company system.
- 4) Any costs incurred by the River Commissioner in regulating this change application shall be the sole responsibility of the applicants.

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This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 18th day of September, 1992.


Robert L. Morgan, P.E., State Engineer

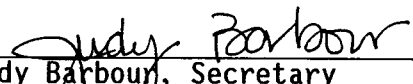
RLM:JER:jb

Mailed a copy of the foregoing Memorandum Decision this 18th day of September, 1992, to:

H. Brent and Christie K. Evans
2456 Dutch Draw
Salt Lake City, UT 84119

Daniel Irrigation Company
ATTN John H Gardner
1140 Aspen Avenue
Provo, UT 84601

Stanley H. Roberts, Jr.
River Commissioner
1675 South 350 East
Orem, UT 84058

BY: 
Judy Barbour, Secretary